

Atty. Dkt. No. 071949-2705

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**RECEIVED
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Applicant: Kenneth F. Buechler
Title: RAPID EVALUATION OF THE
RATIO OF BIOLOGICAL
MOLECULES

Appl. No.: 10/697,356

Filing Date: 10/29/2003

Examiner: Cheu, Changhwa J.

Art Unit: 1641

Confirmation Number: 7520

CERTIFICATE OF FACSIMILE TRANSMISSION I hereby certify that this paper is being facsimile transmitted to the United States Patent and Trademark Office, Alexandria, Virginia on the date below. Vanessa Agha (Printed Name) <i>Vanessa Agha</i> (Signature) NOVEMBER 3, 2006 (Date of Deposit)
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TERMINAL DISCLAIMER OVER U.S. PATENT NO. 5,947,124

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Your Petitioner, Biosite Incorporated, having its principal place of business at 9975 Summers Ridge Road, San Diego, California 92121, represents that it is the owner of the entire right, title, and interest in and to U.S. Patent Application Serial No. 10/697,356, filed 10/29/2003, which is a continuation of U.S. Patent Application No. 09/081,722, filed 5/13/1998, by virtue of an Assignment recorded on 8/2/2006 at Reel/Frame 018150/0962 (inventor Buechler to Biosite Diagnostics Incorporated) and an Assignment recorded on 8/2/2006 at Reel/Frame 018150/0875 (name change from Biosite Diagnostics Incorporated to Biosite Incorporated), in the United States Patent and Trademark Office. Further, your Petitioner represents that it is the owner of U.S. Patent No. 5,947,124 by virtue of an Assignment recorded on 9/5/1997 at

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Reel/Frame 008724/0705 (inventors Buechler and McPherson to Biosite Diagnostics Incorporated) and an Assignment recorded on 6/9/2003 at Reel/Frame 013712/0975 (name change from Biosite Diagnostics Incorporated to Biosite Incorporated).

Your Petitioner, Biosite Incorporated, hereby disclaims the terminal part of the term of any patent granted on U.S. Patent Application 10/697,356 which would extend beyond the full statutory term, as shortened by any terminal disclaimer, of U.S. Patent No. 5,947,124, and hereby agree that any patent so granted on U.S. Patent Application 10/697,356 shall be enforceable only for and during such period that the legal title to any patent granted on U.S. 10/697,356 shall be the same as the legal title to U.S. Patent No. 5,947,124, this agreement to run with any patent granted on U.S. Patent Application 10/697,356 and to be binding upon the grantee, its successors or assigns.

In making the above disclaimer, Petitioners do not disclaim any terminal part of any patent granted on U.S. Patent Application 10/697,356, prior to the full statutory term of U.S. Patent No. 5,947,124 as defined in 35 U.S.C. §§154-156 and 173, in the event that U.S. Patent No. 5,947,124 expires for failure to pay a maintenance fee, is held unenforceable or is found invalid in a final judgment by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR §1.321(a), has all claims canceled by a reexamination certificate or as a result of an interference proceeding, or is otherwise not deemed to provide the rights conveyed by 35 USC §154, prior to the full statutory term of U.S. Patent No. 5,947,124 as defined in 35 USC §§154-156 and 173, except for the separation of legal title stated above. Further, Petitioners do not disclaim any terminal part of a patent granted on U.S. Patent Application 10/697,356 that would extend beyond the present termination of U.S. Patent No. 5,947,124, in the event that such present term is extended by virtue of compliance with the conditions for term extension of any present or future patent term extension provisions of the patent law, including but not limited to 35 U.S.C. §§155, 155A or 156, and without waiving Petitioners' right to extend the term of a patent granted on U.S. Patent Application 10/697,356 to the extent provided by law.

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The undersigned, being the Attorney of Record for U.S. Patent Application 10/697,356, and duly authorized to act on behalf of Petitioners, certifies that he has determined that the aforementioned Assignments are recorded at the USPTO as indicated, and to the best of his knowledge and belief, legal title to U.S. Patent Application 10/697,356 and U.S. Patent No. 5,947,124 rests with Petitioner, Biosite Incorporated.

The undersigned declares that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the above-identified application or any patent issuing therefrom.

Respectfully submitted,

Date

11/02/2006

By

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